

1 BY MR. SUTHERLIN:

2 Q *Did she tell you during that conversation*
3 *that you had --*

4 A Yes.

5 Q *-- that Dave Balzano denied or disavowed*
6 *any knowledge of the copy money?*

7 MR. HARRISON: Same objection.

8 THE WITNESS: *I think she said that he*
9 *indicated that he was aware of it occurring that one*
10 *time.*

11 BY MR. SUTHERLIN:

12 Q *All right. And what did you -- what did*
13 *you tell her to remind her that Dave knew about Dayton*
14 *headquarters not wanting to deal with the money?*

15 A *I reminded her of an earlier conversation*
16 *that we had in the office where Mary indicated to me*
17 *that money generated from copying files in the office*
18 *were to be kept in the office and allocated for office*
19 *use. And I turned to Dave and I looked at him and he*
20 *said, yeah, that's right.*

21 Q *Okay. And do you know when that*
22 *conversation that you're now referring to occurred?*

23 A *It occurred before Mary went out on
24 maternity leave. I think it was 1997 or 1998. 1998 I
25 believe.*

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1 Q **And did you, in fact, remind Mary of that
2 earlier luncheon meeting with Dave Balzano when you
3 called her on this occasion?**
4 A **It wasn't a luncheon meeting, sir. It was
5 just a conversation we had at the copy machine, and I
6 very well may have. As we sit here right now, I have
7 no specific recollection of that.**

8 Q *Okay. But it is your recollection today
9 that there was a discussion at some point in the
10 office between you, Mary Lentz, and Dave Balzano in
11 which Dave Balzano acknowledged that if any money was
12 generated for copying documents and paid by opposing
13 or co-counsel, that that money was to be kept in the
14 office for office purposes?*

15 MR. HARRISON: Objection to the
16 characterization of the witness' testimony. But go
17 ahead.

18 THE WITNESS: *It was my understanding that*

19 *Mary informed me that the copying money -- if you*
20 *generated money by copying documents on a file, that*
21 *they had attempted to contact a supervisor to*
22 *determine how to handle that money. And the*
23 *supervisor indicated that there was no way for them to*
24 *credit that money and that the money should be kept in*
25 *the office for office use.*

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1 BY MR. SUTHERLIN:

2 Q *Okay. And did you ever see anything in*
3 *writing, Mr. Desseyn, at all which dealt with that*
4 *issue about that policy of how to handle copy money?*

5 A *No, sir.*

6 Q *Were you ever there when the copy money was*
7 *used for pizza or lunches for your office staff?*

8 A *Was I ever aware of it?*

9 Q *Were you aware of it?*

10 A *Yes, sir.*

11 Q *And can you tell me how -- with what*
12 *frequency that copy money was used for these office*
13 *luncheons or these pizzas that were purchased?*

14 A *While I was there?*

15 Q *Yeah, while you were there.*

16 A I only recall it occurring a few times.

17 Q Okay. And tell me what the process was for
18 people participating in these lunches; who took orders
19 and that sort of thing.

20 A Well, Paula Ruppert the times that it
21 occurred that I'm aware of -- actually, there were two
22 times that I recall where she came into my office and
23 said there is going to be an office meeting and we're
24 going to use copy money to buy a lunch, what do you
25 want to order. And she took orders.

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1 Q Okay. And that happened a couple of times
2 as to your recollection?

3 A At least twice, yeah. A third time there
4 was another lunch that I understand copy money was
5 used on the day that I left the Dayton office.

6 Q And do you know whether Dave Balzano sat in
7 for this staff meeting and participated in the lunch
8 that was purchased with copy money?

9 A Do I know if Dave Balzano did what?

10 Q Sat in on this staff meeting or meeting
11 that you just referred to. Did he sit in on that
12 meeting and participate in the lunch that was

13 purchased with copy money?

14 A I believe he did on a couple of them, yes.

15 Q How about Fred Young?

16 A Yes.

17 Q And the other secretaries?

18 A I believe so, yes.

19 Q Was there any question that this money was

20 copy money that was purchasing the lunches? I mean

21 did you see anybody pay for example? Anybody talk

22 about it and say, hey, it's copy money, great?

23 MR. HARRISON: Objection to the form but

24 you can answer if you understood the question.

25 THE WITNESS: There was no discussion in

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1 that nature. And I don't know what Paula conveyed to
2 the other individuals. There was no question in my
3 mind, but I can't speak for the other people.

4 BY MR. SUTHERLIN:

5 Q Did you ever hear anybody say I don't want

6 to have lunch unless it is copy money lunch or

7 anything like that?

8 A No. I don't recall that specifically, no.

9 Q Okay.

10 A Could we take a quick break here, sir?

11 MR. SUTHERLIN: Sure. Go right ahead.

12 THE WITNESS: Five minutes?

13 MR. SUTHERLIN: Yeah.

14 (Break.)

15 (Question and answer read.)

16 BY MR. SUTHERLIN:

17 Q Any time you want to take a break, that's

18 fine. I guess this will probably go, oh, maybe not

19 even another hour.

20 A All right.

21 Q I'm looking at the notes that I have. And

22 I understand, Mr. Desseyn, that you were in the

23 military.

24 A Yes, I was.

25 Q Which branch?

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1 A United States Air Force.

2 Q Okay. How long were you in the Air Force?

3 A Four years active duty.

4 Q When was that?

5 A When was that?

6 Q Yeah. When were you in the Air Force?

7 A 1982. May 1982 to May 1986.

8 Q I was a Navy man myself. Okay. When you
9 had this conversation with Mary Lentz, did you also --
10 were you calling to inquire about how to do the same
11 thing in the Harrisburg office?

12 MR. HARRISON: Objection as to form.

13 MR. SUTHERLIN: How to use the copy money
14 is what I'm referring to.

15 THE WITNESS: Well, I'm not sure in what
16 context you're talking about when I called Mary. When
17 I called Mary when I found out that she had either
18 left or been terminated from the company, it wasn't in
19 regards to any copying, as to the use of any copying
20 money.

21 BY MR. SUTHERLIN:

22 Q Okay. *Did you call anybody at the Dayton*
office to find out how to use copy money?

24 A *I left Dayton in I believe it was January*
of 1999. I went to Harrisburg in February of 1999.

4 *that we copied the documents in-house and sent those*
5 *documents as a courtesy out to the other Defendants or*
6 *other parties, that the moneys charged would be --*
7 *would come into the office and be placed into an*
8 *account and that those funds were to be used for*
9 *office purposes.*

10 *And I probably called Julia Gibson to*
11 *inquire as to how they were to endorse the checks if,*
12 *in fact, they established that type of a fund.*

13 *Q Okay. Did you ever discuss this copy money*
14 *issue with Mark Huller at any time after Mary left?*

15 A Did I ever discuss the --

16 *Q Copy money issue or the checks that were*
17 *made out with Mark Huller.*

18 MR. HARRISON: Objection to form. But go
19 ahead and answer if you understand the question.

20 *THE WITNESS: I had a conversation with*
21 *Mark Huller sometime after Mary left about copy money*
22 *as a result of funds being generated from copying*
23 *documents in the office, yes.*

24 BY MR. SUTHERLIN:

25 *Q Can you give me an idea or maybe you know*

1 the exact date when you called?

2 A No. I'm sorry, sir. I don't know the
3 exact date.

4 Q Was it after the first of the year?

5 A First of what year?

6 Q Let me help you out here. Mary Lentz was
7 informed on December 29th, 1999, she was going to be
8 terminated. There was some -- there was action on the
9 part of CIC to present information to the Dayton Bar
10 Association disciplinary body. And that was mid to
11 late January to give you some points of reference
12 here.

13 Do you know whether or not in your

14 conversation with Mark Huller whether it was in that

15 time frame after January 1 of 2000 and before mid

16 January of 2000?

17 MR. HARRISON: Objection to form. If you
18 understand what the question is at this point, you can
19 answer it.

20 THE WITNESS: I believe the conversation I

21 had with Mark Huller occurred after that time frame.

22 BY MR. SUTHERLIN:

23 Q Okay. *Tell me what you said to him and*

24 what he said to you.

25 A I don't recall specifically what was said.

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1 But in generic terms, I called Mark and indicated that

2 I might have some information that might be germane to

3 Mary's situation because I had been at the Dayton

4 office up until I think it was January of 1999.

5 Q Okay.

6 A And he basically asked me what that

7 information was. And as far as I remember, I

8 basically told him what I've told you today about in

9 this particular case that copies were to be made

10 in-house, that the funds collected for those copies

11 were to be deposited in the account; and that to my

12 knowledge it was occurring on a file called Henny

13 Penny at the Dayton office before I left in January of

14 1999. And that I believe that some funds had been

15 used to purchase some meals in conjunction with a

16 meeting at the office.

17 Q Did you also tell Mr. Huller that Dave

18 Balzano was aware of this practice and had explained

19 how this began?

20 MR. HARRISON: Objection to form and

21 foundation, but you can answer the question if you
22 understand it.

23 *THE WITNESS: Well, I don't exactly
24 understand what you mean explain how it began. As I
25 said previously, there was a conversation where I was*

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1 *near the copier. Mary was in the office. Dave
2 Balzano was over near Paula Ruppert's desk.*

3 *And Mary proceeded to tell me that copies
4 that were generated by the attorneys in the office for
5 the benefit of other attorneys on the file would be
6 sent out with a charge.*

7 *And the moneys that came in from those
8 files would be put into an account for the office, for
9 the use of the office because there was no way for
10 them to credit those in Cincinnati.*

11 *Dave Balzano -- I looked at him and he
12 said, yeah, that's right. And that was basically the
13 conversation.*

14 *BY MR. SUTHERLIN:*

15 *Q And you shared that information with Mr.
16 Huller?*

17 *A You know, as I sit here today, I can't*

18 *recall specifically whether I specifically told him*

19 *that or not. I believe I probably did.*

20 Q *Okay. And what was Mr. Huller's response?*

21 A *What was his response?*

22 Q *His response.*

23 A *Well, he thanked me for calling him and*

24 *basically told me that, you know, things were being*

25 *investigated and that was the end of the conversation.*

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1 Q Did he tell you that somebody dropped the

2 ball by not contacting --

3 A I'm sorry.

4 Q *Did he mention -- did he state that*

5 *somebody had dropped the ball by not contacting you?*

6 A *He asked me if there was an individual that*

7 *was investigating the matter that contacted me. And I*

8 *told him, no. And that was basically the extent of*

9 *the conversation.*

10 Q Were you ever contacted by anyone who was

11 investigating this?

12 A I -- well, I spoke with an attorney on this

13 matter.

14 MR. HARRISON: Again, to the extent you had

15 conversations with counsel, I would instruct you not
16 to answer. If you had conversations with persons
17 other than counsel, you can answer.

18 THE WITNESS: And I also spoke with Mr.
19 Huller on it.

20 BY MR. SUTHERLIN:

21 Q Okay. Well, I'm not talking about in-house
22 counsel. I'm actually talking about -- to give you
23 some -- did anybody by the name of Greg Lewis contact
24 you about this?

25 A Not that I recall. I don't ever recall

1 speaking with Greg Lewis on this matter.

2 Q *Or Al Matheny?*

3 A *No, I don't ever recall speaking with -- Al*
4 *Matheny?*

5 Q *Al Matheny. He's with the special*
6 *investigative.*

7 A *I don't ever recall speaking with a Mr.*

8 *Matheny.*

9 Q Or with Phil VanHouten, did you ever speak
10 with him?

11 A Not my knowledge.

12 Q But you did speak with Mark Huller when you
13 called him. Did you ever speak to any other person
14 about this?

15 A I spoke with counsel after this.

16 Q I'm not talking about counsel. That would
17 be either Jack or Debbie Adams I'm assuming. Did you
18 talk to Mr. Huller?

19 A I talked to Mark Huller, and then the next
20 conversation I had was with Debbie Adams.

21 Q Thank you. Were you aware that Mr. Huller
22 indicated that he was going to refer this matter to
23 the disciplinary commission?

24 A No.

25 Q Did he mention he was going to refer the

1 matter to the prosecutor?

2 A No. I didn't ask and he never volunteered
3 that.

4 Q Okay. Did you ever observe -- let me go

5 back to another topic that we already touched on.

6 Have you ever observed any arguments or hear of any

7 arguments between Dave Balzano and Mary Lentz?

8 A Not that I can recall, no.

9 Q Okay. You said there was some tension

10 between the two of them. Do you recall what that was

11 based on, what you observed the tension to be caused

12 by?

13 A Well, I think a lot of it had to do with --

14 I think some of it had to do with Mary's secretary

15 Paula Ruppert and the assignment of work or something

16 to her.

17 Q Did you ever have to stick up for Paula

18 Ruppert on any work issues?

19 A Seems to me there was a couple of times

20 that I had to speak on Paula's behalf, but I don't

21 recall exactly what that was for.

22 Q Did you find that Paula was a hard-working

23 individual?

24 A Yes.

25 Q Did you find that she was an ethical and

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I professional person?

2 MR. HARRISON: Objection as to the

3 foundation, competence of this witness. But you can
4 go ahead and answer.

5 *THE WITNESS: Well, in regards to any work*
6 *with me I would say that's true, any work she*
7 *performed for me.*

8 *BY MR. SUTHERLIN:*

9 *Q Okay. Did you work with Mary Lentz on any*
10 *cases together?*

11 *A I answered that previously. I know of at*
12 *least two cases, and I believe there was several*
13 *others where we worked peripherally together* **where she**

14 may have asked me to prepare a motion in limine or
15 something for her.

16 *Q Okay. You're right. I'm sorry. Did you*
17 *ever observe her ask any other attorneys for*
18 *assistance and observe where they were unwilling to*
19 *help support the prosecution of a particular case?*

20 *A I don't recall observing her asking anybody*
21 *to that effect. But she indicated to me that she had*
22 *some difficulty in getting assistance on a file or*
23 *two.*

24 Q Did she tell you any more than that? Did
25 she tell you whether she had gone to Dave for

1 assistance and wasn't getting any support?

2 A She may have. As we sit here, I don't have

3 any specific recollection.

4 Q Were you aware that Dave Balzano wanted to

5 be transferred to go to Cincinnati?

6 A At what point in time?

7 Q According to Mr. Balzano, he made that

8 aware from the very beginning. So I guess do you have

9 any knowledge of that while you were there?

10 A I do recall after having a specific
11 conversation with Dave Balzano after I became aware
12 that the position in Harrisburg had been offered to
13 me, that he had made a request to Mark Huller to
14 relocate to Cincinnati. And the basis I believe was
15 because he had a couple of children down in that area.

16 Q Okay. Were you aware that Mary Lentz
17 expressed an interest in being managing attorney of
18 that office if Dave Balzano left?

19 MR. HARRISON: Again, do you mean at any
20 point in time?

21 MR. SUTHERLIN: Yes.

22 THE WITNESS: She may have expressed an

23 *interest to me. But as we sit here, I don't*
24 *specifically recall when that would have been; if it*
25 *was before I left or after I left.*

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1 BY MR. SUTHERLIN:

2 Q Okay. *When you worked with Mary on these*
3 *cases, did you find her to be diligent in the*
4 *prosecution of her cases?*

5 A *I'm sorry. When I worked on --*

6 Q *When you were working with Mary, did you*
7 *find her to be diligent in the prosecution and*
8 *management of her cases?*

9 A Did I find her diligent in the prosecution
10 and what of her cases?

11 MS. LENTZ: Management.

12 THE WITNESS: I'm sorry, sir. You're
13 breaking up again. The question is, was she diligent
14 in the management of her cases?

15 BY MR. SUTHERLIN:

16 Q *Did you observe that she was diligent in*
17 *the management and prosecution of cases?*

18 A Yes.

19 Q Okay. *Did you find her to be hard working?*

20 A Yes.

21 Q Did you have any questions about her
22 professionalism or her ethics?

23 A Myself, no. I didn't have any problem
24 with -- any questions with regards to her
25 professionalism or her ethics.

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1 Q Okay. That's what I'm asking. Do you
2 remember anything about Mary saying how or why she put
3 these checks into her account? You said something
4 about Christmas. Do you remember the amount of the
5 checks or the amount was too much for her to cash and
6 leave in the office over the holidays?

7 MR. HARRISON: Objection as to form and
8 foundation, but the witness can answer to the extent
9 he understands the question.

10 THE WITNESS: No, sir. I don't recall any
11 amounts being discussed. All I recall is that there
12 was some concern that there was checks being left in
13 the office over the holidays. And for that reason,
14 she had deposited them.

15 MR. SUTHERLIN: Okay. Sherri, why don't
16 you put us on mute and I'm going to talk to Mary.

17 MR. HARRISON: I'm not sure you will be
18 muted as to me, Mike. You may want to do it on
19 another line.

20 MR. SUTHERLIN: I'll do it on another line.

21 (Break.)

22 BY MR. SUTHERLIN:

23 Q Mr. Desseyn, I am going to ask you a couple
24 of things. A couple more things and we're probably
25 done. Were you aware that there was some tension

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1 between Dave Balzano and Paula?

2 A Yes.

3 Q Do you know what that was over, the cause
4 of that?

5 A I'm not exactly sure. I think part of it
6 dealt with work assignments I think when Mary went out
7 on maternity leave.

8 Q Okay. Did you assist in resolving any of
9 that?

10 A Well, at some point in time Paula was
11 assigned to me or I was assigned to Paula. And I
12 tried to -- Paula was a good worker and I did not want
13 to see her leave and I tried to resolve any tensions

14 there were between her and Dave.

15 Q Okay. How did you go about doing that?

16 A Just by talking. Basically, I talked with

17 Paula about what the problems were and then went and

18 talked with Dave.

19 And I can't specifically recall what

20 problems there were. But just basically tried to

21 maybe act as a sounding board for both sides so that

22 we could try to ease the tension a little bit.

23 Q Did you -- let me see if this helps to

24 refresh your memory of that in more detail. Do you

25 remember that when Mary went out on maternity leave

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1 that David agreed that Paula was supposed to do

2 overflow work for you -- I guess for you?

3 A Yeah. I think that's correct, yes.

4 Q And then he changed his mind as soon as

5 Mary left?

6 MR. HARRISON: Objection to form and

7 foundation, but you can answer if you have any

8 knowledge.

9 THE WITNESS: I don't specifically recall

10 that. I do know at some point Paula was doing all of

11 my work.

12 BY MR. SUTHERLIN:

13 Q Okay. *Did you have an occasion to write a*
14 *letter of recommendation for Mary Lentz after she was*
15 *fired from Berlon & Timmel and Cincinnati Insurance?*

16 A *Mary requested I write a letter of*
17 *recommendation on her behalf which I did so. I don't*
18 *know if, in fact, that I was aware that she was*
19 *terminated from Berlon & Timmel. But I did write the*
20 *letter.*

21 Q Okay. *She didn't tell you that she had*
22 *been fired?*

23 MR. HARRISON: At any point or before the
24 letter?

25 MR. SUTHERLIN: *Before the letter.*

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1 THE WITNESS: *She may have. I don't*
2 *recall.*

3 MR. SUTHERLIN: Okay. That may be it.

4 Hold on one second. I may have one more question.

5 Hold on.

6 **THE WITNESS: Can I clarify that answer?**

7 (Break.)

8 MR. HARRISON: Just hold it, Donald, until
9 he comes back.

10 THE WITNESS: All right.
11 MR. HARRISON: Mr. Sutherlin, before you
12 ask another question, I think Mr. Desseyn has a
13 clarification to his last answer.

14 MR. SUTHERLIN: Okay.

15 **THE WITNESS: I just wanted to clarify that**

16 **last answer. I wrote a letter of recommendation on**
17 **behalf of Mary based upon my perceptions with regards**
18 **to our working together while I was in the Dayton**
19 **office.**

20 **If, in fact, she told me she was terminated**
21 **from Berlon & Timmel, I have no knowledge as to what**
22 **the basis of the termination was other than it had to**
23 **do something with the copy money.**

24 MR. SUTHERLIN: I wasn't asking you what it
25 was based on actually. They are not --

1 COURT REPORTER: Please repeat your last
2 statement.

3 MR. SUTHERLIN: They are not even sure.
4 MR. HARRISON: It doesn't really matter.

5 Mr. Sutherlin is just testifying.

6 MR. SUTHERLIN: I just want to make sure

7 I'm recorded accurately if I'm testifying.

8 MR. HARRISON: Well, let's get you under

9 oath then.

10 MR. SUTHERLIN: If you'll let me testify,

11 I'll be glad to.

12 MR. HARRISON: I'm sure that you would.

13 THE WITNESS: Is there another question?

14 MR. SUTHERLIN: We've had that kind of fun

15 off and on for several days.

16 THE WITNESS: I've seen it before.

17 MR. SUTHERLIN: We all have.

18 THE WITNESS: There's a lot of testosterone

19 flying around.

20 BY MR. SUTHERLIN:

21 Q Okay. I think that's it. I think that's

22 all I can think of here. Let me cover a couple

23 things. *You think you went to at least one lunch,*

24 *maybe more?*

25 A *I said I believe I went to two or three.*

1 *Two I believe that Dave was present, the third one I*

2 know he wasn't present. It was my last day at the
3 office.

4 Q Okay. And were these lunches in the office
5 or out of the office?

6 A In the office in the conference room.

7 Q Okay. Were you aware that Paula was
8 keeping track of the copy money when it was being used
9 for these lunches?

10 MR. HARRISON: Objection to form and
11 foundation, but you can answer it if you have any
12 knowledge.

13 THE WITNESS: Well, I have no -- I don't
14 have any knowledge as to who was -- you know, as far
15 as the accounting of the money.

16 I do know that Paula would take the order.
17 And I guess when she paid for it, she indicated to me
18 that she would write down on the receipt who ordered
19 what.

20 BY MR. SUTHERLIN:

21 Q Okay. Did you ever observe that she kept
22 any receipts or any of these orders in an envelope in
23 her drawer?

24 MR. HARRISON: Objection to form and

25 foundation. If you have any knowledge, you can answer

1 the question.

2 *THE WITNESS: I don't specifically recall*
3 *seeing any or seeing the envelope. But she told me*
4 *she did, and I took her at her word for it.*

5 BY MR. SUTHERLIN:

6 Q Did anybody ever tell you about two
7 different accounts that were I guess opened up and
8 available to Berlon & Timmel attorneys there in
9 Dayton?

10 A I don't know what you mean by made
11 available for attorneys.

12 Q Well, let me ask it this way. Maybe that
13 wasn't a good question. Were you aware there was a
14 trust account there?

15 A It is my understanding -- yes -- well, I
16 don't know if it was a trust account. There was an
17 account open for moneys, checks to be written on files
18 I think for an amount of less than 24.99.

19 Q So there was an account to write checks on.
20 Did you ever deposit any money yourself into any of

21 those accounts?

22 MR. HARRISON: Objection. I think the

23 witness has only identified one account.

24 MR. SUTHERLIN: Into that account, into the

25 expense account.

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1 THE WITNESS: I don't recall ever

2 depositing any moneys into that account, no.

3 BY MR. SUTHERLIN:

4 Q Do you recall anybody explaining to you any

5 other accounts other than that one account that you

6 just mentioned where you could write a check for

7 24.99?

8 A As I sit here, I don't recall an account.

9 I recall if amounts were required in excess of that,

10 generally we ask the supervisor on the file to issue a

11 draft.

12 MR. SUTHERLIN: That's all I have. Thank

13 you very much, Mr. Desseyen.

14 MR. HARRISON: Mr. Desseyn will read and
15 will not waive signatures.

16 MR. SUTHERLIN: I'm signing off.

17 (The deposition concluded at 3:12 p.m.)

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1 COUNTY OF DAUPHIN :
2 : SS
2 COMMONWEALTH OF PENNSYLVANIA :

3 I, Sherri A. Reitano, Notary Public,
4 authorized to administer oaths within and for the
5 Commonwealth of Pennsylvania and take depositions in
6 the trial of causes, do hereby certify that the

7 foregoing is the testimony of

8 DONALD MAURICE DESSEYN.

9 I further certify that before the taking of

10 said deposition, the witness was duly sworn; that the

11 questions and answers were taken down stenographically

12 by the said Sherri A. Reitano, Notary Public, approved

13 and agreed to, and afterwards reduced to typewriting

14 under the direction of the said Reporter.

15 I further certify that the proceedings and

16 evidence are contained fully, accurately in the notes

17 taken by me on the within deposition, and this copy is

18 a correct transcript of the same.

19 In testimony whereof, I have hereunto

20 subscribed my hand this 2nd day of December, 2002.

21

Sherri A. Reitano

Notary Public

22 My commission expires

23 on August 28, 2003.

24

25